

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

v.

MICHELLE LEACH-BARD,

Defendant.

CRIMINAL NO. **SAG 24 cr 107**

(26 U.S.C. § 7202 – Failure to collect or pay
over tax; 18 U.S. § 664 – Theft or
Embezzlement from Employee Benefit
Plan)

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INFORMATION

THE UNITED STATES CHARGES THAT:

At all times material to this Criminal Information:

INTRODUCTORY ALLEGATIONS

1. Defendant **MICHELLE LEACH-BARD** (“**Leach-Bard**”) was a resident of Lutherville-Timonium, Maryland, within the District of Maryland.
2. **LEACH-BARD** was the owner and corporate officer of iProcess Online, Inc. (“iProcess”), a third-party accounting company located in Baltimore, Maryland that provided payroll, human resources, and bookkeeping services to clients.
3. As a corporate officer of iProcess, **LEACH-BARD** was responsible for iProcess’ tax return preparation, bookkeeping, payroll, and administrative functions. She was also the signer on iProcess’ bank account and was responsible for hiring and firing employees.
4. Beginning in or about 2013 through in or about December 2021, **LEACH-BARD** failed to pay over to the Internal Revenue Service (“IRS”) taxes withheld from the paychecks of iProcess employees as well as the employer portion of the taxes.
5. Beginning in or about 2007, **LEACH-BARD** failed to remit monies withheld from iProcess employees’ paychecks intended to be contributed to iProcess’ 401(k) retirement plan.

EMPLOYMENT TAX WITHHOLDING

6. Pursuant to the Internal Revenue Code and associated statutes and regulations, employers are required to withhold amounts from their employees' gross pay, including federal income taxes and Federal Insurance Contribution Act ("FICA") taxes, which represent Social Security and Medicare taxes. These taxes will be referred to in this Information collectively as "trust fund taxes" because employers hold the withheld amounts in trust until paid over to the United States. Employers are required to remit these withheld, trust fund amounts to the IRS on a quarterly basis (every three months), no later than the last day of month following the end of the quarter.

7. In addition to the trust fund taxes that must be withheld from pay, employers are separately required to make matching FICA contributions for Social Security and Medicare taxes withheld from employees. These employer contributions are also required to be remitted to the IRS no later than the last day of the month following the end of the quarter. Collectively, these components required to be remitted quarterly are commonly referred to as "employment taxes," made up of the trust fund taxes withheld (individual income, Social Security and Medicare taxes) and the matching FICA taxes contributed by the employer.

8. Employers are required to account for employment taxes by filing with the IRS, one month after the conclusion of the calendar quarter, an Employer's Quarterly Federal Tax Return, Form 941 ("Form 941"), setting forth the total amount of income taxes withheld, the total amount of Social Security and Medicare taxes due, and the total tax deposits.

9. A person is responsible for collecting, accounting for, and paying over the employment taxes if he or she has the authority required to exercise significant control over the employer's financial affairs, regardless of whether the individual exercised such control in fact.

10. **Leach-Bard** was responsible for collecting, accounting for, and paying over to the IRS the employment taxes, including trust fund taxes. Beginning in or about 2013, **Leach-Bard** failed to account for and pay over the trust fund taxes as required by law.

iPROCESS' EMPLOYEE BENEFIT PLAN

11. A Section 401(k) Profit Sharing and Retirement Plan ("401(k) Plan") was in effect for the benefit of some iProcess employees. The 401(k) Plan was, at all relevant times to this Information, an employee benefit plan subject to Title I of the Employment Retirement Income Security Act of 1974, Title 29, United States Code, section 1001, *et seq.*

12. The assets of the 401(k) Plan were invested through a trust company ("Asset Custodian"). Contributions were deducted from the paychecks of participating employees. iProcess was required to remit those withholdings to the Asset Custodian.

13. **Leach-Bard** was a fiduciary with respect to the 401(k) Plan, and she had exercised discretionary authority and control over the disposition of funds contributed by iProcess employees for purposes of the 401(k) Plan.

14. Beginning in or around 2007, **Leach-Bard** and iProcess ceased remitting employee contributions to the Asset Custodian, although they continued to withhold those funds from employees' paychecks. Since in or around 2007, **Leach-Bard** and iProcess failed to pay over to the Asset Custodian employee contributions to the 401(k) Plan, which were withheld from employees' paychecks in the total amount of approximately \$207,180.41.

COUNT 1

(Willful Failure to Collect, Truthfully Account For, or Pay Over Trust Fund Taxes)

15. Paragraphs 1 through 4 and 6 through 10 of this Information are re-alleged as if fully set forth herein.

16. **Leach-Bard** was a person required to collect, account for on quarterly Forms 941, and pay over to the IRS on behalf of iProcess the trust fund taxes imposed on its employees by the Internal Revenue Code.

17. On or about January 31, 2019, in the District of Maryland, the defendant,

MICHELLE LEACH-BARD,

did willfully fail to truthfully account for and pay over trust fund taxes in the approximate amount of \$56,675.28 due and owing to the IRS on behalf of the employees of iProcess for the Fourth Quarter of 2018, which Form 941 was due on or before January 31, 2019.

In violation of Title 26, United States Code, Section 7202.

COUNT 2

(Theft or Embezzlement from Employee Benefit Plan)

18. Paragraphs 1, 2, 3, 5, and 11 through 14 of this Information are re-alleged as if fully set forth herein.

19. Beginning on or about January 1, 2018, through on or about December 31, 2018, in the District of Maryland and elsewhere,

MICHELLE LEACH-BARD,

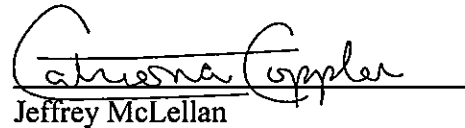
did embezzle, steal, and unlawfully and willfully abstract and convert to her own use and the use of others the monies, funds, securities, premiums, credits, property, and other assets of iProcess' 401(k) Plan, an employee pension benefit plan subject to Title I of the Employee Retirement

Income Security Act of 1974, to wit, the sum of approximately \$33,726.81, which represented employee contributions to the 401(k) Plan for the calendar year 2018.

In violation of Title 18, United States Code, Section 664.

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